

90



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,519	12/07/2001	William H. Courtney	9297.6823	8594

7590 05/14/2003

Daniel S. Polley, Esq.  
Malin, Haley & DiMaggio, P.A.  
1936 South Andrews Avenue  
Fort Lauderdale, FL 33316

EXAMINER

WRIGHT, ANDREW D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/021,519

Applicant(s)

COURTNEY, WILLIAM H

Examiner

Andrew Wright

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 17-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of claims 1-16 in Paper No. 3 is acknowledged.

***Specification***

2. The abstract of the disclosure is objected to because misspelled word "them" (sic) in line 12. Correction is required. See MPEP § 608.01(b).
3. The disclosure is objected to because of the following informalities: inclusion of a question mark for no apparent reason on page 16. Appropriate correction is required.
4. The use of the trademark "VELCRO" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

***Claim Objections***

5. Claims 10-14 and 16 are objected to because of the following informalities: Claims 10, 13, and 14 are missing the word "is" after "flap member" on line 2. Claim 12, line 1, "splint" is misspelled as "split". Claim 16, line 2, "including" should be "includes". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3617

7. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 6 recites "a personal flotation device" in line 2. It is unclear if this is the same personal flotation device recited in claim 1 or a different one.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-7, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Strolenberg (US 4,051,568). Strolenberg discloses a jacket-type personal flotation device (pfd) that comprises a jacket and a neck ring (9). The neck ring is a collar that is positioned adjacent the neck opening of the pfd. The neck ring has a split and closure device, as shown in figure 1. The skilled artisan will recognize that this split is for donning the neck ring by deforming it. Thus it is adjustable in size between the small size shown in figure 1 and a larger size achieved when donning. The neck ring constitutes a cephalo-mandibular splint in that it provides a solid support surface for the mandible and its walls create a hollow space that envelopes the throat. Strolenberg discloses that the neck ring can be attached to the jacket by disposing the neck ring in an annular collar that is fixed to the jacket. The annular collar is a cover that is a cover that is attached to the pfd. Strolenberg teaches that the annular collar that holds the

Art Unit: 3617

neck ring may have a zip to provide access to the neck ring. Therefore the annular collar comprises first and second flaps that are attached to the pfd, and are adjustably secured to each other via the zipper. Strolenberg discloses that the neck ring is made of closed cell foam. The neck ring has a split for donning, and this split constitutes a positioning notch in that it is a notch utilized in positioning the neck ring about the neck.

11. Claims 9, 10, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller (US 2,893,020). Regarding claims 9 and 10, Miller discloses a collar (CP) that is attached to a pfd adjacent the neck opening of the pfd. The collar has a first flap member (45) with a stiff member, snap (50) disposed therein. The collar has a second flap member (46) with a second stiff member, snap (51), disposed therein. The flap members are attached to the pfd by stitching. The flap members are adjustably attached to each other by snaps (52). The flap members are also adapted for removable attachment to the pfd adjacent the neck opening via snaps (50, 51). Regarding claims 15 and 16, Miller discloses a collar (CP) that is attached to a pfd adjacent the neck opening of the pfd. The collar has an elongate relatively stiff member, pad (60, 61) enveloped in fabric (45, 46). The member is fixedly attached to the pfd at a first location by stitching, and removably attached at a second location by snaps. The lobes of the member can be attached via snaps, forming a chin positioning notch.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strolenberg (US 4,051,568) in view of Miller (US 2,893,020). Strolenberg teaches that the annular collar that holds the neck ring is fixed to the jacket, but does not specify stitching. Miller discloses that a fabric collar containing a buoyant insert may be sewn to a pfd. It would have been obvious to one having ordinary skill in the art at the time the invention was made to affix the annular collar of Strolenberg to the jacket by stitching. The motivation would be to affix the collar to the jacket in a well known and common manner.

14. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (US 2,893,020) in view of Lacoursiere et al. (US 5,775,967). Miller teaches the use of snaps, not hook and loop type fastener. Lacoursiere teaches the well known interchangeable nature of snaps and hook and loop type fasteners. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the snap with hook and loop type fastener. The motivation would be to provide an adjustable fastener that is not limited to the single point attachment of snaps.

15. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Strolenberg (US 4,051,568) in view of Hallstrom (US 6,062,929). Strolenberg teaches that the annular collar that holds the neck ring has a zip closure, and does not teach a hook and loop type closure. Hallstrom teaches the well known interchangeable nature of zippers and hook and loop type fasteners. It would have been obvious to one having

ordinary skill in the art at the time the invention was made to replace the zipper with hook and loop type fastener. The motivation would be to provide an adjustable fastener for the annular collar that is not limited to the linear adjustability of a zipper.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grundei et al., Gaylord, Jr., Neel, Walpin, and Hiebert all show cervical collars. Howard, Blanc, Pfeifer, and Florjancic all show inflatable collars. Steger shows a pfd with a chin platform. Fister shows a pfd with a detachable collar comprising a foam core, fabric sleeve, and hook and loop fasteners. Fleischli shows a pfd with a collar with flaps and hook and loop type fasteners.

17. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9326 for before final proceedings and 703-872-9327 for after final proceedings. The fax number for the examiner for unofficial communications is 703-746-3548.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

*AW* 5/13/03